

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GENCO, INC., d/b/a MANITOBA'S,

Plaintiff,

-against-

07 Civ. 3560 (LAK)

CITY OF NEW YORK, et al.,

Defendants.
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ORDER

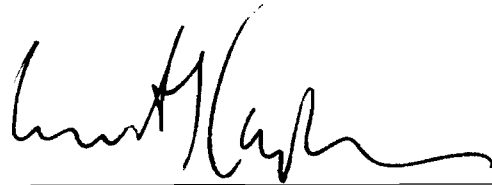
LEWIS A. KAPLAN, *District Judge*.

Plaintiff, a bar and live music venue in the East Village, here challenges on constitutional grounds anti-noise provisions of the New York City Administrative Code. Defendants have moved to dismiss the complaint for failure to state a claim upon which relief may be granted. By letter dated July 5, 2007, they seek a stay of discovery until thirty days following the Court's determination of the motion to dismiss.

The stay of discovery is granted. While it is premature to form any definitive opinion with respect to the motion to dismiss, a preliminary review reveals a reasonable prospect that defendants will prevail. The Court sees no reason to put the defendants to the burden and expense of responding to discovery in these circumstances, particularly inasmuch as the first complaint of excessive noise that triggered the current controversy dates back to 2006 and more recent problems developed nearly five months ago, but plaintiff did not commence this action until May 3, 2007.

SO ORDERED.

Dated: July 10, 2007



Lewis A. Kaplan
United States District Judge

